

# Connections

## Michigan Foster Care Review Board Program

Advocating for Permanency through Reviews and Collaboration

Winter 2003

### INTEGRATING THE CFSR AND THE FCRB

Michigan was recently audited by the federal government as part of an on-going review of all states which accept federal funding. The Adoption and Safe Families Act ("ASFA"), enacted by Congress and signed by the President in 1997, was designed to reform child welfare practice in states which accept federal reimbursement for child welfare costs.<sup>1</sup> It has three main themes: child safety; expedited permanency; and family and child well-being. The federal regulations which implemented the Act require a comprehensive federal review of a state's child welfare system. The Child and Family Services Review (CFSR) takes an in-depth look at performance on 14 measures. Seven of the measures are specific to child and family outcomes; the other seven examine systemic outcomes. They are:

#### CHILD AND FAMILY OUTCOMES

##### Safety

1. Children are, first and foremost, protected from abuse and neglect.
2. Children are safely maintained in their homes whenever possible and appropriate.

##### Permanency

3. Children have permanency and stability in their living situations.
4. The continuity of family relationships is preserved for children.

##### Well-being

5. Families have enhanced capacity to provide for their children's needs.
6. Children receive appropriate services to meet their educational needs.
7. Children receive adequate services to meet their physical and mental health needs.



<sup>1</sup> Federal reimbursement from the ASFA legislation is often referred to as "IV-E" and "IV-B" funds, labels which refer to the applicable section of the Social Security Act which was amended by ASFA.

#### SYSTEMIC OUTCOMES

1. Statewide information system (computerized collection and analysis of data).
2. Case review system (case plans, case reviews, permanency hearings, and termination of parental rights petitions).
3. Quality assurance system (systematic review of performance).
4. Staff training (including legal staff when applicable).
5. Service array (services to support child safety, permanency, and well-being).
6. Agency responsiveness to the community (collaboration and coordination of services).
7. Foster and adoptive parent licensing, recruitment, and retention.

A state is evaluated through on-site review, which includes case readings and interviews with parties in the case. The randomly selected cases are then rated on each outcome as either "in substantial conformity" or "needs improvement." For each outcome rated as needing improvement, the state must develop a "Program Improvement Plan" ("PIP"). Once the PIP is approved, the state has two years to implement the plan before the next on-site review. Failure to implement the PIP or make substantial progress in improving conformity with the outcome measures will result in serious financial penalties to the state. The financial penalties are increased with each review period with inadequate performance. The Family Independence Agency ("FIA") is responsible for developing and implementing the PIP.

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At the same time, the Court Improvement Program (“CIP”)<sup>2</sup> is to engage the judiciary as a partner in the effort to improve the child welfare system, especially in areas where the judiciary has a specific role such as in the case review system, or holding timely and adequate Permanency Planning Hearings.

Michigan’s CFSR was conducted in September in three counties, Wayne, Jackson, and Saginaw. While strengths were found in all sites, all of the child specific outcome measures have been rated as needing improvement. Michigan passed six out of the seven systemic factors. The one systemic factor rated as needing improvement involves Permanency Planning Hearings. It was found that both the quality and timeliness of the hearing needs improvement.

The FCRB program is likely to play a significant role as part of the quality assurance mechanisms which will be instituted in Michigan through the PIP. State policy, state statutes, and the intentions of the administration for FIA are supportive of reform and excellence. However, it is difficult to insure that what is intended is actually implemented in the field. The FCRB is ideally situated to provide feedback regarding local practice.

In order to focus FCRB reviews towards the outcome measures of the CFSR, the review process is undergoing change and renewal. Staff are working on a re-designed review instrument that will be piloted in numerous locations before being finalized. A new data collection system is also being designed to capture more targeted information about specific cases. The FCRB program can then use the data to inform the child welfare system about its actual performance. The data can be analyzed locally, regionally, and on a statewide basis to make it useful as a management tool to insure excellence. Local case reviews will form the foundation for understanding the bigger picture of performance. Reviewers will still make findings and recommendations on individual cases and have an impact on those cases, but the more important role will be to comment on general performance using the random reviews to collect that information.

The barrier to permanency list may be significantly downsized and incorporated into the review instrument. Currently, the barrier list contains so many possible barriers, that consistency of data collection is difficult to maintain. When review panels have over a hundred choices, there is no way to insure all panels use the same barrier to describe the same or similar conditions. Additionally, the barrier list only comments on why permanency is being delayed. There is currently no other data collection about performance. The

new instrument will collect information which addresses child safety, the engagement of the family in the development of the service plan, and other key processes which taken together indicate quality case management.

Conversations with FIA administrators indicate their willingness to collaborate with the FCRB and the CIP. The use of the FCRB reviews as a tool for quality assurance is a mutual goal of the SCAO and FIA. Discussions will continue as to how best to implement this concept, but early indications are that cooperation and collaboration will guide the effort.

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## **FCRB Program Working With Supreme Court on Attorney Representation**

*by Robert Goldenbogen, Member, Board #14*

In these uncertain times of budget cuts, early retirements, new administrations in the Governor’s office, the legislature, at FIA, and even within our own Program, I am pleased to bring you some optimistic news on a topic that has been the focus of concern for the Foster Care Review Board Program for many years--attorney representation.

It has been the consistent observation of the Foster Care Review Board Program, nearly statewide, that attorney representation for court wards has been consistently lacking in many respects. Our local boards often receive reports from interested parties that many lawyer-guardian ad litem have little or no contact with their clients, the foster parents, the FIA, or purchase-of-service caseworkers.

Despite the requirements of the Lawyer-guardian ad litem Statute,<sup>3</sup> characterized by the American Bar Association’s Center on Children and the Law as “one of the nation’s most detailed set of mandatory guidelines for representing children,”<sup>4</sup> our state’s abuse and neglect wards often do not receive the representation and advocacy they need and deserve.

In the Foster Care Review Board Program’s 2001 Annual Report, our statewide compiled data testified to this observation. We found that inaction on the part of lawyer-guardian ad litem was one of the top ten barriers to permanency. We therefore recommended that the Supreme Court “. . . explore the creation of an Office of Lawyer-guardian ad litem as a vehicle for training, monitoring, and

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<sup>2</sup> CIP provides a federal grant to the highest court in each state to assist in the implementation of the PIP and to develop projects which improve how courts handle child protective proceedings.

<sup>3</sup> MCL §712A.17d, *et seq*

<sup>4</sup> Gary A. Lukowski & Heather J. Davies, A Challenge for Change: Implementation of the Michigan Lawyer-Guardian ad litem Statute, American Bar Association (Nov. 2002). The ABA study of Michigan’s Lawyer-guardian ad litem Statute was funded by the Governor’s Task Force on Children’s Justice. The 108-page Final Report explored multiple facets of the statute, its implementation, and even its feasibility.

enforcing the provisions of . . . “ the Lawyer-guardian ad litem Statute.” In retrospect, and with the knowledge of the state’s current budgetary crunch, that goal was a bit lofty. Nevertheless, it caught the attention of the Supreme Court’s Chief Justice, Maura Corrigan.

Justice Corrigan has taken a particular interest in the welfare of the Foster Care Review Board Program, asking David Easterbrook to sit as her representative to the Program’s Advisory Board. She has also invited the Program’s Executive Committee to meet with her annually for the past two years to discuss the Program’s concerns, goals, and our Annual Report. It was at such a meeting in November 2002 that Justice Corrigan focused in on our concerns regarding lawyer-guardian ad litem representation. We discussed the concerns the Program has regarding representation of abuse and neglect wards. We discussed the problems of poor training of lawyer-guardian ad litem, inadequate funding for the work they are required to do, and poor enforcement of the requirements of the Lawyer-guardian ad litem Statute, all concerns also raised by the ABA’s study of the statute.<sup>5</sup>

The Chief Justice indicated that the current court budget cannot support a new office to provide oversight for this issue. However, she quickly refocused the discussion toward pulling together other resources and marshaling the efforts of others working on this issue with an eye toward collaboration from several sources to achieve the same ends. The result was a follow-up meeting between the Chief Justice; the FCRB Executive Committee; Dawn McCarty, interim director of the Michigan Judicial Institute; and Tobin Miller, the Michigan Judicial Institute’s Publications Director. Justice Corrigan challenged those present to develop a plan to establish and fund an educational program for the training of lawyer-guardian ad litem. The current plan is to establish a training model for use by the various family division courts and/or local bar associations around the state. Funding sources, such as the Governor’s Task Force on Children’s Justice, are being explored.

We will be meeting again with Justice Corrigan in March to determine what other resources are available and map out a plan to bring those resources together to establish a program for training of lawyer-guardian ad litem. Look for updates on our efforts in future FCRB Program Newsletters.



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<sup>5</sup> Id.

## From the Program Manager

*By Linda Glover*

Change can provide opportunity and the FCRB is about to be blessed with a great deal of both. After just five months as the manager of the Program, I have decided to accept the unexpected offer to retire at the ripe old age of 52. This could not have been contemplated in August, but as John Lennon allegedly said, “Life is what happens when you are making other plans.”

Staying at home will allow me to take care of my 90-year-old mother who came to live with us in May, as well as participate more fully in my children’s teen years. As we built our family through adoption, we made the decision that one parent at home would best meet the needs of our family. After over seven years of my husband being the stay-at-home parent, we are trading places.

This is an exciting time for the FCRB. The federal Child and Family Services Review has provided strong motivation for collaboration between all the stakeholders in the child welfare system. As the FCRB adapts to its role as a provider of feedback on compliance with federal standards, my hope is that the reviewers enjoy a sense of renewed purpose. Your work is often difficult and frustrating. Attention to your message should be the reward for your efforts. Nanette Bowler’s appointment as director of the FIA will support your role. In 1997, it was her advocacy on behalf of Lt. Governor Binsfeld which expanded the FCRB statewide.

Your advocacy on behalf of individual cases is important. One of the plans still on the drawing board is to establish an instant communication loop for cases that need immediate attention. Contact with the FIA Family Advocate by either the local board chair or the Program Representative is one of the methods I was going to propose to FIA. This intervention by the local board would only be invoked in those situations where reviewers feel the safety, well-being, or permanency of the child or family is at imminent risk. I hope the concept will be developed by my successor.

However, the individual review of cases must be seen in a larger context in order to insure systemic impact. Combining the results of your individual case findings in a database to provide feedback on systemic performance will substantially compound your efforts. As contemplated, the database will be able to report on a local, regional, or statewide basis on any or all of the performance measures that are established as part of the review process.

I will be following your progress and anticipate wonderful results.



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### **Good Outcomes for Children in the Foster Care System**

#### **THE CHILD....**

- .....is protected
- .....has a chance to process what has happened
- .....has a chance to grieve what he/she has lost
- .....has the ability to be connected to things familiar
- .....has stability in a family setting
- .....is nurtured in a family setting
- .....has an opportunity to identify and develop new skills and abilities
- .....has a structure which provides predictability
- .....has access to competent and regular health care
- .....makes educational progress
- .....has access to important people in his/her life
- .....has a right to connections with his/her birth family
- .....has memories of the experience which include happy times

**The past** is not erased under the guise of "protection"

**Transitions** preserve stability and dignity and meet the child's needs

**Traditions** are preserved and new ones are created

**Therapy** is not used as a replacement for stable family life

**Foster parents/relatives** are supported in their work

**Every decision** is made with the long view in mind

The Michigan  
**Foster Care Review Board Program**  
is administered by the  
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